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OFFICE OF PETITIONS

In re Application of :
Torghele et al. : DECISION ON APPLICATION
Application No. 10/040,950 : FOR
Filed: January 7, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 946999.00002-4: :
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN THE NOTICE OF ALLOWANCE" filed January 13, 2005. Applicants request that the initial determination of patent term adjustment be corrected from seventy-one (71) days to one hundred (100) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the notice of allowance is one hundred (100) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 14, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 71 days. The instant application for patent term adjustment was timely filed with payment of the Issue Fee. Applicants dispute the number of days reduced for the filing of their response to the Notice to File Missing Parts of Application mailed February 19, 2002.

Applicants state that the patent issuing from this application is not subject to a terminal disclaimer.

Applicants' argument is well taken. A review of the application file confirms that applicants' response to the Notice to File Missing Parts of Application mailed February 19, 2002, is of record in the application with a date of receipt by the Office of July 23, 2002. This was outside of the three-month period under 37 CFR 1.704(b). However, the period of delay was sixty-five (65) days, not ninety-four (94) days.

In view thereof, the correct Patent Term Adjustment at the time of mailing of the notice of allowance is 100 days (210 - (65 + 45)).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.



Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of REVISED PAIR screen